

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/308,207	DUNN-COLEMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Malgorzata A. Walicka	1652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/10/04.
2. ☒ The allowed claim(s) is/are 19-21,26-31 and 41-51.
3. ☒ The drawings filed on 13 May 1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date <u>12/15/03</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date <u>011105</u>.</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|--|

Art Unit: 1652

The Amendment and Response to Office Action filed on Sept. 10, 2004 is acknowledged. The amendments to the claims have been entered as requested. Claims 1-18, 22-25 and 32-40 were previously canceled. Claims 19, 20, 28, 43, 45 and 47-50 are currently amended. Claims 19-21, 26-31 and 41-51 are pending and are the subject of this Office Action.

### **Detailed Office Action**

#### **1. Objections**

Objections to the specification made in the pervious Office Action, dated May 27, 2004 are withdrawn, because the proper amendments have been entered and Applicants arguments are persuasive.

#### **2. Rejections**

##### ***2.1. 35 USC 112, second paragraph***

Rejection of claims 28, 45, 49 made in the Office Action of May 27 is withdrawn, because the claims have been amended.

Rejection of claims 19, 20-21, 26-31, 41-51 made in the Office Action of May 27, 2004 is withdrawn, because independent claims 19, 47 and 49 have been amended.

##### ***2.2. 35 U.S.C. section 112, first paragraph***

###### **2.2.1. Lack of written description**

Art Unit: 1652

Claims 19-21, 26-31 and 41-51 were rejected under 35 U.S.C. 112, first paragraph, in the Office Action of May 27, 2004 as failing to comply with the written description requirement. Rejections of claims 19, 21, 26-31 41-42, and 44-51 are withdrawn, because the claims have been amended and Applicant's arguments are found persuasive.

#### 2.2.2. Scope of enablement

Claims 19-21, 26-31 and 41-51 were rejected in the Office Action of May 27, 2004. Rejection of claims 19, 21-22, 26-31, 41-, 49 and 51 is withdrawn because the claims have been amended.

### 3. Examiner's amendment

Please amend the claims as follows:

- a) in claim 20 replace --corresponding to-- with --of-- in the 4<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> line;
- b) in claim 48 replace --corresponding to-- with --of-- in the 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> line;
- c) in claim 50 replace --corresponding to-- with --of-- in the 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> line.

43. The recombinant microorganism of Claim 19 further comprising a gene encoding a glycerol-3-phosphatase selected from the group consisting of a nucleic acid molecule encoding the amino acid sequence of SEQ ID NO:17[, and SEQ ID NO:33[, and enzymatically active fragment thereof].

Art Unit: 1652

Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative Lynne Marcus-Wyner on January 11, 2004; see the enclosed Interview Summary.

#### **4. Allowance**

Claims 19-21, 26-31 and 41-51 are allowed for reasons indicated in Office Actions of May 22, 2001 and January 10, 2003.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malgorzata A. Walicka whose telephone number is (571) 272-0944. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for


Art Unit: 1652

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Malgorzata A. Walicka, Ph.D.

Art Unit 1652

Patent Examiner

  
REBECCA E. PROUTY  
PRIMARY EXAMINER  
GROUP 1800  
1652